

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY D. DAVIS,

Defendant.

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CASE NO. 8:04CR199

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Defendant's notice of appeal (Filing No. 173) and the Clerk's memorandum regarding the untimeliness of the notice (Filing No. 174).

On December 3, 2009, the Court denied the Defendant's motion to dismiss for lack of jurisdiction (Filing No. 165). On March 15, 2010, the Defendant filed his notice of appeal. (Filing No. 173.)

Federal Appellate Rule of Procedure 4(b)(1)(A) provides that, under the circumstances presented in this case, a criminal defendant's notice of appeal must be filed within 14 days of the entry of the judgment or order from which an appeal is taken. Federal Appellate Rule of Procedure 4(b)(4) provides that the 14-day period may be extended by 30 days upon a finding of excusable neglect or good cause.

In this case, the notice of appeal is untimely. The Defendant has not shown excusable neglect or good cause.

IT IS ORDERED:

1. The Defendant's notice of appeal (Filing No. 173) is untimely;
2. The Defendant is not entitled to proceed in forma pauperis on appeal; and
3. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 22nd day of March, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge